

UNITED STATES DISTRICT COURT

for the

Eastern District of Texas

Beaumont Division

Sherrene Cook

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

J.C. Penney Corporation
Inc Pension Plan
"See attached"

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No.

1:18CV314

(to be filled in by the Clerk's Office)

Jury Trial: (check one)

☐

Yes

☒

No

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JUL 30 2018

BY
DEPUTY

Amended

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Sherrene Cook

Street Address

2400 Ashley St

City and County

Beaumont Jefferson County

State and Zip Code

Texas 77602

Telephone Number

409.444.0401

E-mail Address

Sherrene1@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed. "See Attached Page"

Defendant No. 1

Name JC Penney Corporation Inc. Pension Plan
Job or Title (if known) Plan Sponsor
Street Address 6561 Legacy Dr
City and County Plano Collin County
State and Zip Code Texas 75024-3698
Telephone Number 1. 972. 431. 1000
E-mail Address (if known) _____

Defendant No. 2

Name Powerline
Job or Title (if known) Benefits Administration Services
Street Address 4 Overlook point
City and County Lincolnshire Lake County
State and Zip Code Illinois 60069-1458
Telephone Number 1. 888. 890. 8900
E-mail Address (if known) _____

Defendant No. 3

Name Benifits Admistration Committee (BAC)
Job or Title (if known) Plan Administrator
Street Address 6561 Legacy Dr
City and County Plano, Collin County
State and Zip Code TX 75024-3698
Telephone Number 1. 972. 431. 1000
E-mail Address (if known) _____

Defendant No. 4

Name Claims and Appeals management
Job or Title (if known) Claim Administrator
Street Address 4 Overlook point
City and County Lincolnshire Lake County
State and Zip Code Illinois, 60069-1458
Telephone Number 1. 888. 890 8900
E-mail Address (if known) _____

" See Attached "

Defendants

Defendant No.2

Powerline

Defendant No. 3

J C Penney

Benefits Administration Committee (BAC)

Defendant No. 4

J C Penney

Claims and Appeals Management (CAM)

Defendant No.5

Alight Solutions Benefit Payment Services, LLC

Defendant No.6

John Doe 1-15

B. The Defendant (s)

Defendant No. 5

Name Alight Solutions Benefit Payment Service. LLC
Job or Title Benefit Payment Service
Street Address 4 Overlook Point
City and County Lincolnshire
State and Zip Code Illinois 60069-1467
Telephone No. 224. 737. 7000
Email (if known) _____

Defendant No. 6

Name John Doe 1-15
Job or Title _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone No. _____
Email (if known) _____

Defendant No. 7

Name _____
Job or Title _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone No. _____
Email (if Known) _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case. *Under Section 1024 (b) (4) J.C Penney failed to*

furnish information per written request. Failure to comply falls under 29 C.F.R. § 2575.502c-1. Per my ERISA Claim and Appeals was J.C. Penney or Powerline in violation of 502(a) of the Employee Retirement Income Security Act of 1974, as amended. Are the Defendant J.C. Penney in violation of 29 C.F.R. § 2575.502c-1

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) _____, is a citizen of the State of (name) _____.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of the State of (name) _____. Or is a citizen of (foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under
the laws of the State of (name) _____, and has its
principal place of business in the State of (name) _____.
Or is incorporated under the laws of (foreign nation) _____,
and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

" See Attached "

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

- (1) Lump sum payment option \$450,000.00
- (2) Under 29 C.F.R. § 2575.602c-1 I'm asking for the penalty amount for failure to provide requested information in the amount of \$7,150 this amount increases per day for every day J.C. Penney fails to provide requested information
- (3) Court cost

III. Statement of Claim

Claim 1

On May 28, 2012 my husband, a retiree of J.C. Penney Inc. passed away. I called "Powerline" the Benefits Administration service provider for J.C. Penney on June 5, 2012 at 1-888-890-8900 to report his death and start my Beneficiary Benefits.

I was told to fax into "Powerline" a copy of an original certified Death Certificate to 1-847-554-1271. Powerline verified information, Password, Full name, Date of Birth and current address. At that point I explained I needed to change my address because I was moving from Florida to Texas to take care of my mother who was dying of Stage 4 Cancer.

Powerline told me they would update my address but I must fax in a written request to 1-847-554-1271.

On June 14, 2012 and June 18, 2012 I faxed both the Death certificate and the Change of address. I started receiving my retroactive benefits on June 1, 2012, they are direct deposited to my bank account.

In 2015 The Retirement Plan was amended to allow a group of retirees, who were currently receiving "Plan Benefits" a one-time opportunity to receive the present value of their remaining benefit under the retirement plan in a "Lump Sum" option. I was included in this group.

Page 2

Powerline window of time between August 3, 2015 and September 18, 2015 to elect the "Lump Sum" option.

On July 31, 2015 Election kits providing information about the Lump Sum Window were mailed out. Also on August 24, 2015, September 8 and 9th 2015 information was mailed out.

Because Powerline failed to update my address all of this information was sent to Florida and not my current address. Powerline's failure to update my address caused me to miss important information concerning my retirement benefits.

I filed two claims with J. Penney/Powerline and they were both denied. I received a letter on July 8, 2016 that I have a right to bring action under 502 (a) of the Employment Income Act of 1974 as amended.

Claim 2

On May 25, 2018 The Johnson Law Firm mailed an Authorization To Release Information To My Attorney and a Letter To The Benefits Administration Committee of J. C. Penny Corporation requesting Pension Plan information. This request falls under

Section 1024 (b) (4) J. C. Penney has failed to provide the information requested in the May 25, 2018 letter.

Claim 3

Court cost

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7.30.2018

Signature of Plaintiff

Printed Name of Plaintiff

Sherrene Cook

Sherrene Cook

2400 Ashley St Beaumont, TX 77702

409.444.0401

Sherrene12@gmail.com

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address